

REMARKS

Claims 12-22 were previously pending in the application. This Amendment amends claim 14 to correct informalities. Claims 12, 13, and 15-22 remain unchanged. Claims 12, 20, and 22 are independent.

Entry of this Amendment is proper because it does not raise any new issues requiring further search by the Examiner, narrows the issues on appeal, and is believed to place the present application in condition for immediate allowance.

The Claim Objections

The Office Action objects to claim 14 because of informalities. This Amendment amends claim 14 to correct the informalities, thereby obviating these objections.

Applicants respectfully request withdrawal of this objection.

The Claimed Invention

An exemplary embodiment of the claimed invention, as recited by, for example, independent claim 12, is directed to a refrigerating appliance including a heat- insulating housing and a cooling circuit including an evaporator, a compressor and a condenser. A first assembly is provided including at least the housing and the evaporator, wherein a second assembly is mounted remotely from the first assembly and separated therefrom by a spacing zone. The second assembly includes at least the compressor. A coupling assembly extends across the spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough.

Independent Claim 22 recites a method for installing a refrigerating appliance in furniture, comprising the following steps:

- installing a first assembly of the refrigerating appliance, including at least one heat-insulating housing, an evaporator and a coolant pipe, in a first zone of the furniture;
- installing a second assembly including at least one compressor in a second zone of the furniture the first zone being separated from the second zone by a third zone,

with the third zone being devoid of any of the first assembly and the second assembly;
and

- connecting connections of the coolant pipe of the first assembly to corresponding connections of the second assembly, with the coolant pipe spanning the distance between the first assembly and the second assembly.

The present invention provides the flexibility in refrigerator construction to allow the refrigerated compartment to be placed at a height convenient for use in a first zone in operational communication with a second assembly formed as a base unit and disposed in a second zone remotely from the first assembly, usually in a poorly accessible area which may otherwise be unusable for kitchen service. See, e.g., page 2, lines 3-10.

The Rejection under 35 U.S.C. § 102

In the Office Action, claims 12-14, 16, and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by the Simmons et al. reference (W003/012350). Applicants respectfully traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Applicants respectfully submit that the Simmons et al. reference does not disclose the features of the claimed invention including a heat-insulating housing; a cooling circuit including an evaporator, a compressor and a condenser; a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

As explained above, these features are important providing the flexibility in refrigerator construction to allow the refrigerated compartment to be placed at a height

convenient for use in a first zone in operational communication with a second assembly formed as a base unit and disposed in a second zone remotely from the first assembly, usually in a poorly accessible area which may otherwise be unusable for kitchen service. See, e.g., page 2, lines 3-10.

The Simmons et al. reference very clearly does not disclose these features. Indeed, the Simmons et al. reference very clearly fails to disclose at least a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

The claimed invention clearly recites (1) that the housing is included in the first assembly, and (2) that the first assembly, which includes the housing, is mounted remotely from the second assembly.

In stark contrast, the Simmons et al. reference discloses an insulated frame 130 that includes both the alleged first assembly 150 and the alleged second assembly 140. Since the first assembly 150 and the alleged second assembly 140 are part of the insulated frame 130, the second assembly 140 very clearly is not, and cannot be, remote from the first assembly 150, which includes the insulated frame 130.

Indeed, the Simmons et al. reference appears to be comparable to the second conventional design described by Applicants in the present application. See, e.g., page 1, lines 13-19.

The Simmons et al. reference very clearly does not disclose the features of the claimed invention including a heat-insulating housing; a cooling circuit including an evaporator, a compressor and a condenser; a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the

first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

As explained above, these features are important providing the flexibility in refrigerator construction to allow the refrigerated compartment to be placed at a height convenient for use in a first zone in operational communication with a second assembly formed as a base unit and disposed in a second zone remotely from the first assembly, usually in a poorly accessible area which may otherwise be unusable for kitchen service. See, e.g., page 2, lines 3-10.

Applicants respectfully request withdrawal of this rejection.

The Rejections under 35 U.S.C. § 103

In the Office Action, claim 15 is rejected under 35 U.S.C. § 103(a) as being anticipated by the Simmons et al. reference (W003/012350) in view of the Fumagalli reference (EP0845643). Claim 17 is rejected under 35 U.S.C. 103(a) as being anticipated by the Simmons et al. reference in view of the Kahler reference (US 6745588). Claims 18, 19, and 22 are rejected under 35 U.S.C. 103(a) as being anticipated by the Simmons et al. reference in view of the Holzer et al. reference (US2002/0014086).

Applicants respectfully traverse these rejections.

Applicants respectfully submit that none of the applied references discloses or suggests the features of the claimed invention including a heat-insulating housing; a cooling circuit including an evaporator, a compressor and a condenser; a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

As explained above, these features are important providing the flexibility in refrigerator construction to allow the refrigerated compartment to be placed at a height convenient for use in a first zone in operational communication with a second assembly

formed as a base unit and disposed in a second zone remotely from the first assembly, usually in a poorly accessible area which may otherwise be unusable for kitchen service. See, e.g., page 2, lines 3-10.

Applicants respectfully request withdrawal of this rejection.

As explained above, the Simmons et al. reference very clearly does not teach or suggest these features.

The Fumagalli reference does not remedy the deficiencies of the Simmons et al. reference. Indeed, the Office Action does not rely on the Fumagalli reference for these features. As shown in Figures 1-3, the Fumagalli reference clearly fails to disclose or suggest at least a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

The Kahler reference also does not remedy the deficiencies of the Simmons et al. reference. Indeed, Applicants respectfully submit that one of ordinary skill in the art would not have had an apparent reason to combine the disclosure of the Simmons et al. reference with the disclosure of the Kahler reference to arrive at the claimed invention as a whole. Moreover, the Office Action does not establish an adequate rationale for making such a combination.

Instead, regarding the Kahler reference, the Office Action makes the conclusory statement that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Simmons et al reference with the Kahler reference to include the coolant pipe together with a condensation water pipe guided in a line and including a coupling disposed in the condensation water pipe for convenient adjusting of the piping relative to the location of the modular refrigerator housing in view of the teaching by Kahler. The Office Action fails to provide any support for these conclusions.

Applicants respectfully submit that such conclusory statements are insufficient to provide a prima facie case for obviousness because the Office Action fails to provide an

adequate rationale for modifying the prior art as required by *KSR International v. Teleflex Inc.* 82 U.S.P.Q. 2d 1385 (2007).

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in *KSR*).

The Office Action provides absolutely no hint of any articulated reasoning with any rationale underpinning to support a legal conclusion of obviousness. As such, the Office Action fails to present a *prima facie* case for obviousness.

The Office Action has provided no articulated reasoning to modify the *Simmons et al* reference to arrive at the claimed invention, except from using Applicants' invention as a template through hindsight reconstruction of Applicants' claims.

The *Holzer* reference also does not remedy the deficiencies of the *Simmons et al.* reference.

The *Holzer* reference discloses a cooling device for installation in a furniture niche. The cooling device is seen in Figure 1 and illustrated at 25 with a cooling unit 28 disposed immediately therebelow. Figure 1 discloses a kitchen furniture unit 10 having three adjacent cabinets 11 a, 11 b and 11 c, whose front is formed by doors 12 that are constructed at different heights and on whose body rests on height adjustable feet 13 that stand on the non-illustrated floor of a kitchen. (Paragraph 0020). A center cabinet supports the built-in cooling device 25. The cooling machinery is disposed in the base 28. (Paragraph 0021). The refrigeration unit or cooling device 25 is essentially a conventional small refrigerator disposed within a lower cabinet of the kitchen unit 10.

In stark contrast to the present invention, the cooling chamber of *Holzer* reference is not remotely disposed from the cooling machinery and a first assembly is not remotely disposed from a second assembly and separated therefrom by a spacing zone in accordance with the claims of the present application with the separation occurring across a spacing zone within the kitchen furniture.

For at least these reasons, Applicants respectfully submit that none of the applied references discloses or suggests the features of the claimed invention including a heat-insulating housing; a cooling circuit including an evaporator, a compressor and a condenser; a first assembly including at least said housing and said evaporator; a second assembly mounted remotely from said first assembly and separated therefrom by a spacing zone, said second assembly including at least said compressor; and a coupling assembly extending across said spacing zone between the first assembly and the second assembly for movement of refrigerant therethrough, as recited in independent claim 12.

As explained above, these features are important providing the flexibility in refrigerator construction to allow the refrigerated compartment to be placed at a height convenient for use in a first zone in operational communication with a second assembly formed as a base unit and disposed in a second zone remotely from the first assembly, usually in a poorly accessible area which may otherwise be unusable for kitchen service. See, e.g., page 2, lines 3-10.

Applicants respectfully request withdrawal of these rejections.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 12-22 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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